

would adversely affect the capital treatment of the stock or financial instrument under current or successor applicable capital provisions compared to a capital instrument with identical terms other than the term and condition described under clause (i).

(I) REQUIREMENTS ON FINANCIAL INSTRUMENTS ISSUED BY A COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION LOAN FUND.—Any equity equivalent capital issued to the Treasury by a community development loan fund receiving a capital investment under the Program shall provide that the rate at which interest is payable shall be 2 percent per annum for 8 years. After 8 years, the rate at which interest is payable shall be 9 percent.

(6) ADDITIONAL INCENTIVES TO REPAY.—The Secretary may, by regulation or guidance issued under section 4104(9), establish repayment incentives in addition to the incentive in paragraph (5)(E) that will apply to new capital investments in a manner that the Secretary determines to be consistent with the purposes of this subtitle.

SA 4615. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . MAXIMUM 35 PERCENT RATE ON TRADE OR BUSINESS INCOME.

(a) IN GENERAL.—Section 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(j) MAXIMUM RATE ON TRADE OR BUSINESS INCOME.—

“(1) IN GENERAL.—If, for any applicable taxable year, a taxpayer who is an individual (other than an estate or trust) has qualified trade or business income, then, in lieu of the tax imposed on the taxpayer by subsection (a), (b), (c), or (d), there is hereby imposed a tax equal to the lesser of—

“(A) the tax imposed by this section without regard to this subsection, or

“(B) a tax equal to the sum of—

“(i) a tax computed at the rates and in the manner as if this subsection had not been enacted on the greater of—

“(I) taxable income reduced by qualified trade or business income and any net capital gain, or

“(II) the amount of taxable income (reduced by any net capital gain) taxed at a rate below the highest rate of tax imposed by section 11(b) for such taxable year, plus

“(ii) a tax equal to the product of such highest rate of tax and the taxpayer's qualified trade or business income which was not taken into account under clause (i).

“(2) COORDINATION WITH RATE ON NET CAPITAL GAINS.—If a taxpayer has qualified small business income for any applicable taxable year and also has a net capital gain for such taxable year—

“(A) this subsection shall not apply, and

“(B) the tax computed under subsection (h)(1)(A) shall not exceed the amount determined under paragraph (1).

“(3) QUALIFIED TRADE OR BUSINESS INCOME.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified trade or business income’ means, with respect to any taxable year, an amount equal to the excess (if any) of—

“(i) the aggregate income from the actual conduct of a trade or business which—

“(I) is income from sources within the United States (within the meaning of section 861), and

“(II) is not passive income (as defined in section 904(d)(2)(B)), over

“(ii) the sum of—

“(I) the cost of goods sold that are allocable to such income, and

“(II) other expenses, losses, or deductions that are properly allocable to such income.

“(B) CAPITAL GAINS AND LOSSES DISREGARDED.—Items taken into account in determining net capital gain shall not be taken into account in determining qualified trade or business income.

“(4) APPLICABLE TAXABLE YEAR.—For purposes of this subsection, the term ‘applicable taxable year’ means any taxable year of the taxpayer with respect to which any rate of tax under the applicable table contained in subsection (a), (b), (c), or (d) exceeds 35 percent.

“(5) NET CAPITAL GAIN.—For purposes of this subsection, the term ‘net capital gain’ has the meaning given such term by subsection (h).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2010.

SA 4616. Mr. UDALL of New Mexico submitted an amendment intended to be proposed to amendment SA 4594 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, line 25, before the period insert “including, to the extent possible based on the available reporting data, details on lending to women-owned businesses, veteran-owned businesses, and minority-owned businesses”.

SA 4617. Mr. FRANKEN submitted an amendment intended to be proposed to amendment SA 4594 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 41, after line 25, add the following:

SEC. 1137. TEMPORARY PROGRAM FOR RAPID DEPLOYMENT OF RENEWABLE ENERGY AND ELECTRIC POWER TRANSMISSION PROJECTS.

Section 1705(a) of the Energy Policy Act of 2005 (42 U.S.C. 16516(a)) is amended by adding at the end the following:

“(4) Energy efficiency projects, including projects to retrofit residential, commercial, and industrial buildings, facilities, and equipment.”.

PRIVILEGES OF THE FLOOR

Mr. DURBIN. Mr. President, on behalf of Senator LINCOLN, I ask unanimous consent that Bradley Karmen, a detailee of the Senate Agriculture Committee, be granted the privilege of the floor for the remainder of this Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL AEROSPACE WEEK

Mr. DURBIN. Madam President, I ask unanimous consent the Commerce Committee be discharged from further consideration of H. Con. Res. 292 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 292) supporting the goals and ideals of National Aerospace Week, and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 292) was agreed to.

The preamble was agreed to.

MEASURES READ THE FIRST TIME—S. 3772 and S. 3773

Mr. DURBIN. Madam President, I understand there are two bills at the desk. I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will read the titles of the bills for the first time.

The legislative clerk read as follows:

A bill (S. 3772) to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

A bill (S. 3773) to permanently extend the 2001 and 2003 tax relief provisions and to provide permanent AMT relief and estate tax relief, and for other purposes.

Mr. DURBIN. I now ask for a second reading en bloc, and I object to my own request en bloc.

The PRESIDING OFFICER. Objection is heard. The bills will be read for the second time on the next legislative day.

ORDERS FOR TUESDAY, SEPTEMBER 14, 2010

Mr. DURBIN. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Tuesday, September 14; that following the prayer